

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CRYSTAL DEAN, Personal Representative
of the Estate of Elaine Archuleta, Deceased,

Plaintiff,

vs.

No. 1:14-cv-00472 MV/GBW

RIO ARriba COUNTY BOARD OF
COMMISSIONERS, a municipal entity
Organized under the laws of the State of
New Mexico and its subsidiary, GENARO
MADRID; GUILLERMO JARAMILLO;
ORLANDO ULIBARRI; GUY JORDAN;
JAMES CULIN; and EDWARD MERCURE,
and the UNITED STATES OF AMERICA,

Defendants.

**AMENDED JOINT STATUS REPORT AND
PROVISIONAL DISCOVERY PLAN**

Pursuant to FED. R. CIV. P. 26(f), a meeting was held on March 16, 2015 telephonically
and was attended by:

Doug Perrin for Plaintiff

Robert W. Becker for Rio Arriba County Defendants

Cynthia L. Weisman for the United States of America

NATURE OF THE CASE

This is a civil rights case brought under 42 U.S.C. § 1983, arising out of the death of
Elaine Archuleta while in custody at the Rio Arriba County Detention Center. This is an action
under the Federal Tort Claims Act (FTCA) as to the United States of America.

AMENDMENTS TO PLEADINGS AND JOINDER OF PARTIES

Plaintiff intends to file: None anticipated at this time, but amendments made necessary
by discovery may be filed.

Plaintiff should be allowed until June 29, 2015 to move to amend the pleadings and until April 28, 2015 to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

Rio Arriba County Defendants intend to file: none contemplated at this time but Defendant reserves the right to amend its pleadings and/or to add parties in accordance with the scheduling order of the Court.

United States of America intends to file: none at this time.

Defendants should be allowed until July 17, 2015 to move to amend the pleadings and until May 18, 2015 to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

STIPULATIONS

The parties hereto stipulate and agree that venue is properly laid in this District; that the United States District Court for the District of New Mexico has jurisdiction of the parties and the subject matter.

The parties are willing to further stipulate to the following facts: any and all facts unconditionally admitted in Defendants' Answers.

The parties further stipulate and agree that the law governing this case is: no stipulation on the law.

PLAINTIFF'S CONTENTIONS

On or about August 28, 2012, Elaine Archuleta was arrested and booked into the Rio Arriba County Adult Detention Facility. She informed the officers booking her that she was withdrawing from alcohol and heroin, and these facts were known to personnel at the RACADF from Ms. Archuleta's previous stays in that facility as well.

Ms. Archuleta was taken to the La Clinica Del Pueblo in Tierra Amarilla, New Mexico during the day of August 29, 2012 at which time she was prescribed medications to address her health issues.

The personnel at the Rio Arriba County Adult Detention Facility charged with the care, supervision, and monitoring of Elaine Archuleta during her incarceration totally and completely failed in their duties. They were all employees of Rio Arriba County, supervised and trained by the Rio Arriba County Adult Detention Facility supervisors and staff, and acting under color of state law.

The RACADF and its employees failed to provide Ms. Archuleta with all of the medications which were prescribed for her on August 29, 2012 by Shirley Knackstedt, a nurse practitioner, and Ms. Archuleta was consistently complaining of pain and discomfort as well as vomiting and suffering from uncontrolled diarrhea while she was incarcerated, without response or attention from any agent or employee of the Defendants, or any attempt to provide medical assistance until it was too late.

No correctional officer nor employee of Rio Arriba County Detention Center assisted Ms. Archuleta, nor provided, aid and necessary medical treatment to her until it was far too late, after she had seizures and suffered respiratory arrest, and in spite of their knowledge of her distress, complaints and worsening condition. Even at the point at which her breathing stopped and seizures began, fellow inmates were giving Ms. Archuleta CPR, while the guards, employed by the County and trained and supervised by the facility, watched. An ambulance was finally called, but did not arrive for approximately 45 minutes, and should have been called for earlier.

Ms. Archuleta died in the early morning hours of August 30, 2012, from alcohol and heroin withdrawal. Defendant's practices and policies and intentional, deliberate and reckless indifference to Plaintiffs condition deprived her of rights secured to her by the 8th and 14th

Amendments to the U.S. Constitution. Shirley Knackstedt, the nurse practitioner who examined Ms. Archuleta, did not order her to be admitted to a hospital for treatment and observation.

DEFENDANTS' CONTENTIONS

1. Rio Arriba County Defendants' Contentions

Elaine Archuleta was arrested on August 28, 2012 for possession of heroin after information was provided to the New Mexico State Police that she and a male were selling heroin from a trailer in Rio Arriba County. At the time of her arrest, she was discovered to have an outstanding adult probation and parole arrest order.

Ms. Archuleta was booked into the Rio Arriba County Detention Center in Tierra Amarilla. Upon booking, she stated that she was addicted to heroin and had drank a large amount of alcohol prior to her arrest.

Rio Arriba County had an agreement with La Clinica Del Pueblo in Tierra Amarilla to provide medical care to the Rio Arriba County Detention Center. La Clinica Del Pueblo ("the Clinic") is funded by federal grant money and is subject to the provisions of the Federal Tort Claims Act. The United States of America has been substituted in as a party defendant for the Clinic.

Ms. Archuleta was seen by Clinica Del Pueblo Nurse Practitioner Shirley Knackstedt in the afternoon of August 29, 2012. Nurse Practitioner Knackstedt was familiar with Ms. Archuleta because she had treated Ms. Archuleta for heroin and alcohol withdrawal during Ms. Archuleta's previous admissions to the Rio Arriba County Detention Center. The United States of America has been substituted in as a party defendant for Nurse Practitioner Knackstedt.

Nurse Practitioner Knackstedt prescribed medication for Ms. Archuleta to address her heroin and alcohol withdrawal. The medication was obtained by the Rio Arriba County

Detention Center from a local pharmacy. Librium was given to Ms. Archuleta at approximately 10:00 p.m. The other medications called for administration at 7:00 a.m., 12 noon and 5:00 p.m.

Ms. Archuleta expired late in the evening on August 29, 2012 despite taking the Librium medication. According to the autopsy report, Ms. Archuleta died of alcohol withdrawal syndrome “due to chronic ethanol (alcohol) abuse.” Rio Arriba County Detention Center Officers responded appropriately to Ms. Archuleta’s pod when she began having seizures.

There was no deliberate indifference to any serious medical need by the Rio Arriba County Detention Center, nor any actionable negligence by the Rio Arriba County Detention Center, or its officials or administrators.

2. United State of America’s Contentions

Nurse Practitioner Knackstedt worked for La Clinica del Pueblo de Rio Arriba (the Clinic), a federally funded healthcare facility. Ms. Knackstedt examined Ms. Archuleta at the RACADF on August 29, 2012, at about 3 pm, during regularly scheduled clinic hours and provided prescriptions for medications to be administered to Ms. Archuleta while incarcerated. Another employee from the Clinic would be at the RACADF the following morning for another session of regularly scheduled weekly clinic hours. Ms. Knackstedt properly treated Ms. Archuleta at RACADF. Defendant United States of America contends that Ms. Knackstedt’s care of Ms. Archuleta was not the sole proximate cause of Ms. Archuleta’s death. Defendant United States of America contends that its employee possessed and applied the knowledge and used the skill and care ordinarily used by reasonably well qualified nurse practitioners in the care of Ms. Archuleta. Defendant United States contends that its employee did not act negligently in caring for Ms. Archuleta, nor did its employee cause the alleged harms, injuries, or damages to Ms. Archuleta.

PROVISIONAL DISCOVERY PLAN

The parties jointly propose to the Court the following discovery plan: *(Use separate paragraphs or subparagraphs as necessary if parties disagree.)*

List all witnesses who, at this time, you think will either testify or be deposed, giving their name, title, address and a brief summary of their testimony. It is insufficient to list witnesses' addresses, save for clients, "in care of counsel."

Plaintiff's Witnesses

1. Crystal Dean
HC 74 Box 5P
Pecos, New Mexico 87552
2. Jolene Herrera Valdez
7175 Mesa del Oro
Santa Fe, NM 87507
3. Shirley Knackstedt, Nurse Practitioner
Highway 84
Tierra Amarilla, NM 87575
(575) 588-9506
Nurse Practitioner Knackstedt will testify to her treatment of Ms. Archuleta.
4. Lawrence DeYapp, Jail Administrator
Rio Arriba County Detention Center
c/o Yenson, Allen & Wosick, P.C.
4908 Alameda Blvd., NE
Albuquerque, NM 87113-1736
505 266-3995
Mr. DeYapp will testify to the agreement with La Clinica Del Pueblo to provide medical services at the Rio Arriba County Detention Center and policies and procedures at the Detention Center.
5. James Culin
Rio Arriba County Detention Center
2 Main Street
Tierra Amarilla, NM 87575
(575) 588-7350
Officer Culin will testify to providing Ms. Archuleta with medication prescribed by Nurse Practitioner Knackstedt.
6. Edward Mercure
Rio Arriba County Detention Center

2 Main Street

Tierra Amarilla, NM 87575

(575) 588-7350

Officer Mercure will testify to the medication rounds on August 29, 2012 at the Rio Arriba County Detention Center.

7. Genaro Madrid
Rio Arriba County Detention Center
2 Main Street
Tierra Amarilla, NM 87575
(575) 588-7350
Officer Madrid will testify to CPR efforts on Ms. Archuleta.
8. Maria Deaguero
Rio Arriba County Detention Center
2 Main Street
Tierra Amarilla, NM 87575
(575) 588-7350
Officer Deaguero will testify to CPR efforts on Ms. Archuleta.
9. Guillermo Jaramillo
Rio Arriba County Detention Center
2 Main Street
Tierra Amarilla, NM 87575
(575) 588-7350
Officer Jaramillo will testify to contacting EMS to respond to the Rio Arriba County Detention Center.
10. Phyllis Richards
La Clinica Del Pueblo Ambulance
Highway 84
Tierra Amarilla, NM 87575
EMT Richards will testify to the EMT response to the Rio Arriba County Detention Center and EMT care provided to Ms. Archuleta prior to her expiring.
11. Sam Andrews, M.D.
Office of the Medical Investigator
MSC07 4040
1 University of New Mexico
Albuquerque, NM 87131-0001
(505) 273-3053
Dr. Andrews will testify to the autopsy of Ms. Archuleta and the cause and manner of death.
12. Susan Crookham, Scientist
NMS Labs
3701 Welsh Road
Willow Grove, PA 19090

(800) 522-6671

Ms. Crookham will testify to the toxicology results on Ms. Archuleta's blood.

13. Joey Gallegos, Sr.
New Mexico State Police
4491 Cerrillos Road
Santa Fe, NM 87507-9721
(505) 827-9300
Agent Gallegos will testify to his investigation and arrest of Elaine Archuleta on August 28, 2012.
14. Francis Archuleta
Address Unknown
15. All jail personnel at the Rio Arriba County Detention Center on the day of Ms. Archuleta's death. The identity of all these persons is not known to Plaintiff at this time.

Rio Arriba County Defendants' Witnesses

1. Shirley Knackstedt, Nurse Practitioner
Highway 84
Tierra Amarilla, NM 87575
(575) 588-9506

Nurse Practitioner Knackstedt will testify to her treatment of Ms. Archuleta.

2. James Culin
Rio Arriba County Detention Center
2 Main Street
Tierra Amarilla, NM 87575
(575) 588-7350

Officer Culin will testify to providing Ms. Archuleta with medication prescribed by Nurse Practitioner Knackstedt.

3. Edward Mercure
Rio Arriba County Detention Center
2 Main Street
Tierra Amarilla, NM 87575
(575) 588-7350

Officer Mercure will testify to the medication rounds on August 29, 2012 at the Rio Arriba County Detention Center.

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(575) 588-7350

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2 Main Street
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7. Phyllis Richards
La Clinica Del Pueblo Ambulance
Highway 84
Tierra Amarilla, NM 87575

EMT Richards will testify to the EMT response to the Rio Arriba County Detention Center and EMT care provided to Ms. Archuleta prior to her expiring.

8. Lawrence DeYapp, Jail Administrator
Rio Arriba County Detention Center
c/o Yenson, Allen & Wosick, P.C.
4908 Alameda Blvd., NE
Albuquerque, NM 87113-1736
(505) 266-3995

Mr. DeYapp will testify to the agreement with La Clinica Del Pueblo to provide medical services at the Rio Arriba County Detention Center and policies and procedures at the Detention Center.

9. Sam Andrews, M.D.
Office of the Medical Investigator
MSC07 4040
1 University of New Mexico
Albuquerque, NM 87131-0001
(505) 273-3053

Dr. Andrews will testify to the autopsy of Ms. Archuleta and the cause and manner of death.

10. Susan Crookham, Scientist
NMS Labs
3701 Welsh Road
Willow Grove, PA 19090
(800) 522-6671

Ms. Crookham will testify to the toxicology results on Ms. Archuleta's blood.

11. Joey Gallegos, Sr.
New Mexico State Police
4491 Cerrillos Road
Santa Fe, NM 87507-9721
(505) 827-9300

Agent Gallegos will testify to his investigation and arrest of Elaine Archuleta on August 28, 2012.

United States of America's Witnesses

1. Shirley Knackstedt, NP
La Clinica del Pueblo de Rio Arriba
Tierra Amarilla, NM

Ms. Knackstedt is expected to testify about her care and examination of Ms. Archuleta on 8/29/12 at RACADF.

2. Witnesses listed by Plaintiff and by Defendant Rio Arriba County.

List all documents which you believe, at this time, will be exhibits at the trial.

Plaintiff's Exhibits

1. All Rio Arriba County Detention Center records
2. Autopsy report on Elaine Archuleta
3. Video of Rio Arriba County Detention Center
4. Medical records from Rio Arriba County Detention Center
5. Medical records from La Clinica Del Pueblo
6. Records regarding dispatch of ambulance and ambulance records

Rio Arriba County Defendants' Exhibits

1. Arrest/Booking Report dated August 28, 2012
2. Criminal Complaint in State of New Mexico v. Elaine Archuleta
3. Statement of Probable Cause in State of New Mexico v. Elaine Archuleta
4. Arrest Order for Elaine Archuleta from New Mexico Corrections Department, Probation and Parole Division
5. Rio Arriba County Detention Center, Elaine Archuleta Booking Report dated August 28, 2012
6. Rio Arriba County Detention Center, Elaine Archuleta Inmate Screening dated August 28, 2012
7. Elaine Archuleta Jail/Pod Placement dated August 28, 2012
8. Progress Note of Shirley Knackstedt, CFNP, dated August 29, 2012
9. Prescription written by Shirley Knackstedt, CFNP, dated August 2014
10. Medication Receipt dated August 29, 2012
11. Record book of Prescriptions dated August 29, 2012
12. Blister paks of medications from Rio Drugs of Chama
13. Reports of Detention Center Officers Culin, Mercure, Madrid, Deaguero and Jaramillo
14. Report of Phyllis Richards, EMT
15. Autopsy Report on Elaine Archuleta
16. Toxicology Report on Elaine Archuleta
17. Booking Unit Control logs
18. Elaine Archuleta 2010 and 2011 Rio Arriba County Detention Center Records

United States of America's Exhibits

1. Arrest/booking report 8/28/12 with criminal complaint, statement of probable cause, and arrest order

2. Rio Arriba County Adult Detention Center Booking Report 8/28/12 with inmate screening, intake search form
3. La Clinica del Pueblo Progress Note by NP Knackstedt 8/29/12 and prescriptions 8/29/12
4. La Clinica del Pueblo Ambulance Prehospital Care Report 8/30/12
5. State of New Mexico Incident Report 8/30/12
6. Rio Arriba County Adult Detention Center Release Report 8/30/12
7. La Clinica coding sheet 8/29/12
8. La Clinical Billing Report 8/30/12
9. State of New Mexico Certificate of Death 3/4/14
10. Autopsy Report, UNMH Office of Medical Investigator 9/21/12
11. OMI Report of Findings 9/26/12
12. OMI Field Supplemental 8/30/12
13. NMS Labs Toxicology Report 9/17/12
14. Rio Arriba Detention Center Personal Information Sheet 12/6/10
15. Rio Arriba Detention Center Medical Screening Questionnaire 12/6/10
16. La Clinica Progress Note 12/8/10 and prescription 12/8/10
17. La Clinica Progress Note 12/11/10 and prescription 12/11/10
18. La Clinica Progress Note 12/21/10 and prescription 12/21/10
19. Rio Arriba County Detention Center Medication Distribution 12/16-20/2010
20. Rio Arriba Detention Center personal information sheet 10/18/11 with detention report, detainee photo, suicide screening questionnaire, medical screening questionnaire
21. La Clinica Progress Note 10/19/11 and prescription 10/19/11
22. Rio Arriba County Detention Center Medication Distribution 12/9-12/2010
23. Rio Arriba County Detention Center video 8/29-30/2012
24. Exhibits identified by Plaintiff or by Defendant Rio Arriba County

List all experts who you believe, at this time, will testify at the trial, giving their name, address, area of expertise, and a brief summary of the anticipated testimony.

Plaintiff's Experts

1. Dr. William Kenneth Noel
7349 W. Garden Glen Drive
Boise, Idaho 83714
2. Kathryn J. Wild, RN, MPA, CCHP
1407 Foothill Boulevard, Suite 221
La Verne, California 91750

Rio Arriba County Defendants' Experts

Defendants shall identify any testifying expert in accordance with the supplemental scheduling order entered by the Court.

United States of America's Experts

None identified yet.

Discovery will be needed on the following subjects: *(Brief description of subjects on which discovery will be needed.)* Plaintiff's theories of liability and damages and Defendants' defenses.

Maximum of 25 interrogatories by Plaintiff to Rio Arriba County Defendants and 25 interrogatories by Rio Arriba County Defendants to Plaintiff. Maximum of 25 interrogatories by Plaintiff to USA and by USA to Plaintiff. (Responses due 30 days after service).

Maximum of 25 requests for admission by Plaintiff to Rio Arriba County Defendants and 25 requests for admission by Rio Arriba County Defendants to Plaintiff. Maximum of 25 requests for admission by Plaintiff to USA and by USA to Plaintiff. (Responses due 30 days after service).

Maximum of 25 requests for production of documents by Plaintiff to Rio Arriba County Defendants and 25 requests for production by Rio Arriba County Defendants to Plaintiff. Maximum of 25 requests for production by Plaintiff to USA and by USA to Plaintiff. (Responses due 30 days after service).

Maximum of 15 depositions by Plaintiff and 15 by Defendants.

Each deposition (other than of parties and experts) limited to maximum of 6 hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from Plaintiff by June 12, 2015

from Defendants by July 14, 2015

Supplementation under Rule 26(e) due in accordance with the Federal Rules of Civil Procedure.

All discovery commenced in time to be complete by October 23, 2015.

Other Items: *(Use separate paragraphs or subparagraphs as necessary if other parties disagree.)* None.

PRETRIAL MOTIONS

Plaintiff intends to file: necessary discovery motions and motions for protective orders, dispositive motions and any necessary motions in limine.

Rio Arriba County Defendants intend to file: necessary discovery motions and motions for protective orders, dispositive motions and any necessary motions in limine.

United States of America intends to file: none at this time, although the need for motions in limine and other evidentiary motions may become evident as litigation proceeds.

ESTIMATED TRIAL TIME

The parties estimate trial will require 5 days.

 X This is a non-jury case as to the USA.

 X This is a jury case as to Rio Arriba.

The parties request a pretrial conference 30 days prior to trial. The United States requests an early settlement conference.

SETTLEMENT

The possibility of settlement in this case cannot be evaluated prior to completion of discovery. The parties request a settlement conference in October, 2015. The United States requests an early settlement conference, before the completion of discovery.

EXCEPTIONS

(Where counsel cannot agree to any recitation herein, exceptions shall be listed.)

APPROVED WITH/WITHOUT EXCEPTIONS
(note exceptions above)

/s/Doug Perrin
Doug Perrin for Plaintiff

/s/Robert W. Becker
Robert W. Becker for Rio Arriba County
Defendants

/s/Cynthia L. Weisman
Cynthia L. Weisman for the United States
of America

CERTIFICATE OF SERVICE

I hereby certify that on 25th day of March, 2015, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court of New Mexico, using the electronic case filing system of the Court. The electronic case filing system sent a “Notice of Electronic Filing” to the following attorney of record to accept this Notice as service of this document by electronic means:

Robert W. Becker
Yenson Allen & Wosick PC
4908 Alameda Boulevard NE
Albuquerque, New Mexico 87113-1736
rbecker@ylawfirm.com

Cynthia Weisman
Assistant United States Attorney
DAMON P. MARTINEZ - United States Attorney
P.O. Box 607
Albuquerque, New Mexico 87103

/s/Doug Perrin

Doug Perrin